

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARK VINIELLO AND OVER ACTIVE
IMAGINATIONS, INC.,

Plaintiffs,

v.

AMAZON.COM, INC.,

Defendant.

) Case No. 2:23-cv-01866-MLP

)

) **STIPULATED MOTION AND**
) **~~PROPOSED~~ ORDER RE LEAVE TO**
) **FILE SECOND AMENDED**
) **COMPLAINT (DKT. 17)**

)

) NOTE ON MOTION CALENDAR:
) March 25, 2024

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Pursuant to Federal Rule of Civil Procedure 15(a)(2) and Local Civil Rule 15, the parties,
by and through counsel, stipulate and agree as follows:

1. On December 5, 2023, plaintiffs Mark Viniello and Over Active Imaginations, Inc. (“OAI”) filed a Complaint for Patent Infringement (Dkt. 1) against Amazon.com, Inc. (“Amazon”), which asserted infringement of U.S. Patent No. D743,669 (the “’669 patent”), U.S. Patent No. D751,792 (the “’792 patent”), and U.S. Patent No. D792,055 (the “’055 patent”).

2. On January 24, 2024, plaintiffs Mr. Viniello and OAI filed a First Amended Complaint for Patent Infringement (Dkt. 5) against Amazon, which asserted infringement of the ’669, ’792, and ’055 patents.

3. Both the Complaint for Patent Infringement and the First Amended Complaint for Patent Infringement allege that Mr. Viniello owns the '669 patent and the '792 patent, and that OAI owns the '055 patent.

4. Mr. Viniello and OAI represent that on March 15, 2024, they entered into assignment agreements assigning all rights in the '669 patent and the '792 patent from Mr. Viniello to OAI.

5. On March 20, 2024, plaintiff OAI filed a Second Amended Complaint for Patent Infringement (Dkt. 17) against Amazon, which asserted infringement of the '669 patent, the '792 patent, and the '055 patent.

6. The Second Amended Complaint for Patent Infringement does not include Mr. Viniello as a party.

7. Amazon consents to OAI's filing of the Second Amended Complaint and the removal of Mr. Viniello as a party, while reserving all rights to otherwise challenge the Second Amended Complaint for Patent Infringement, including but not limited to the assignment agreements.

8. A copy of the Second Amended Complaint for Patent Infringement that indicates how it differs from the First Amended Complaint for Patent Infringement by bracketing or striking through the text to be deleted and underlining or highlighting the text to be added is attached as **Exhibit A**. Plaintiff Over Active Imaginations, Inc., prepared this copy and represents it is accurate.

9. Subject to the Court's approval, the parties have agreed to ask the Court for leave to file the Second Amended Complaint and order the following:

a. Pursuant to Federal Rule of Civil Procedure 15(a)(2), the Second Amended Complaint for Patent Infringement filed on March 20, 2024 (Dkt. 17) supersedes the First Amended Complaint for Patent Infringement.

b. Pursuant to Federal Rule of Civil Procedure 15(a)(3), Amazon's deadline to respond to the Second Amended Complaint for Patent Infringement is April 3, 2024.

1 c. Mr. Viniello no longer asserts any claims in this litigation and is no longer a party in
2 this litigation.

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4 IT IS SO STIPULATED.

5 DATED this 25th day of March, 2024.

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23 **Attorney for Over Active Imaginations, Inc.**

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

DATED this 28th day of March, 2024.



MICHELLE L. PETERSON
United States Magistrate Judge